

AMENDMENT TO THE DRAWINGS

### REMARKS

Applicant respectfully requests reconsideration of the present U.S. patent application. Claims 1-3, 11, 15, 16, 20, 25 and 26 stand rejected under 35 U.S.C. § 102. Claims 5-8, 12-14, 21-24 and 27 stand rejected under 35 U.S.C. § 103. Claims 9, 10, 17-19 and 28-33 have been objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. Claims 1-3, 9-11, 15, 16, 18, 20, 22 and 29 have been amended. No claims have been canceled or added. Therefore, claims 1-33 remain pending.

### Drawing Objections

The drawings were objected to as failing to show every feature of the invention specified in the claims, specifically, the InGaAs layer having a concentration greater than 53 percent. Applicants have amended Fig. 2 and Fig. 3A to show that the InGaAs layers have a concentration greater than 53 percent. No new matter has been added, as support for the amendments to the drawings are found in at least paragraphs [0025] and [0037] of the Specification. Applicants believe that the enclosed replacement drawings address the Examiner's objections and respectfully request that such drawings be approved.

### Specification Objections

The disclosure was objected to because of certain informalities, specifically, having two reference numerals listed for the same element in paragraph [0003], and misspelling of the word "absorb" in paragraph [0010]. Applicants have amended the specification to correct the aforementioned informalities. Therefore, Applicants respectfully submit that the amendments address the objections to the specification.

### Claim Objection

Claim 1 was objected to because of the absence of the word “wherein” before “the InGaAs.” Applicants respectfully point out that claim 1 states, in part, “an indium gallium arsenide (InGaAs) absorption layer, the InGaAs absorption layer having a Group III sublattice indium concentration,” so that the insertion of the word “wherein” before “the InGaAs” would make the claim confusing. Therefore, Applicants respectfully submit that there should not have been an objection to claim 1.

### Claim Rejections - 35 U.S.C. § 112

Claim 15 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Applicants have amended claim 15 to correct the typographical error that led to the rejection under 35 U.S.C. § 112, second paragraph. Therefore, Applicants respectfully submit that the amendment addresses the rejection under 35 U.S.C. § 112, second paragraph.

Applicants noticed that claim 22, which is an apparatus claims, depended from claim 19, which is a method claim. Applicants have amended claim 22 so that it properly depends from independent claim 20, which is an apparatus claim.

### Claim Rejections - 35 U.S.C. § 102

#### Rejections of Claims 1-4, 11, 15, 16, 20, 25 and 26 based on *Forrest*

Claims 1-4, 11, 15, 16, 20, 25 and 26 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,479,032 issued to Forrest et al. (*Forrest*). Claims 1, 11 and 20 have been amended to include allowable limitations of claims 10, 18 and 29,

respectively. Consequently, claims 1, 11 and 20 are in condition for allowance. Claim 2-4 depends from claim 1. Claims 15 and 16 depend from claim 11. Claims 25 and 26 depend from claim 20. Because dependent claims include the limitations of the claims from which they depend, Applicants submit that claims 2-4, 15, 16, 25 and 26 are in condition for allowance. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of claims 1-4, 11, 15, 16, 20, 25 and 26 under 35 U.S.C. § 102.

#### Claim Rejections - 35 U.S.C. § 103

##### Rejections of Claims 5-8, 12-14, 21-24 and 27 based on *Forrest*

Claims 5-8, 12-14, 21-24 and 27 were rejected under 35 U.S.C. § 103 as being anticipated by *Forrest*. As stated above, claims 1, 11 and 20 have been amended to include allowable limitations of allowed claims 10, 18 and 29, respectively. Consequently, claims 1, 11 and 20 are in condition for allowance.

Claims 5-8 depend from claim 1. Claims 12-14 depend from claim 11. Claims 21-24 and 27 depend from claim 20. Because dependent claims include the limitations of the claims from which they depend, Applicants respectfully submit that claims 5-8, 12-14, 21-24 and 27 are in condition for allowance. Applicants respectfully request that the Examiner withdraw the rejections of claims 5-8, 12-14, 21-24 and 27 under 35 U.S.C. § 103.

#### Allowable Subject Matter

Claims 9, 10, 17-19 and 28-33 have been objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 1 has been


amended to include the allowable limitations of allowed claim 10. See Office Action, Page 6, lines 1-2. Claims 9 has been amended to depend from claim 1, and claim 10 depends from claim 1. Therefore, claims 9 and 10 are in condition for allowance. Claim 11 has been amended to include the allowable limitations of allowed claim 18. See Office Action, Page 5, lines 21-22. Claims 17-19 depend from claim 11. Therefore, claims 17-19 are in condition for allowance. Claim 20 has been amended to include the allowable limitations of allowed claim 29. See Office Action, Page 6, lines 1-2. Claims 28-33 depend from claim 20. Therefore, claims 28-33 are in condition for allowance.

#### CONCLUSION

For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 1-33 are in condition for allowance and such action is respectfully solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Respectfully submitted,

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